

Appln No. 09/892,010

Amdt date November 18, 2004

Reply to Office action of August 26, 2004

REMARKS/ARGUMENTS

Claims 1, 3-11, 13-19, 21-30, and 32-38 are now in the application. Claims 1, 3, 6, 9, 11, 13, 15, 19, 21, 24, 27, 30, 32, 33, and 35 have been amended. The Applicant respectfully requests reconsideration, reexamination and allowance of the application in view of the amendment and the following remarks.

The Applicant believes that (despite the fact that in page 2, paragraph 2 of Office Action only lists rejections for Claims 1-35) the Examiner has actually intended to reject Claims 1-38 under 35 U.S.C. §103 as allegedly being unpatentable over Radha (US 6,639,943) in view of Tan (US 6,542,549). The Applicant respectfully traverses these rejections. Further, the Applicant has amended Claims 1, 3, 6, 9, 11, 13, 15, 19, 21, 24, 27, 30, 32, 33, and 35 to better set forth the subject matter being claimed.

Specifically, the Applicant has amended Claim 1 to now recite a method of encoding a video stream, the method comprising the steps of:

* * *

generating a base bitstream comprising one or more base ... (VOPs) being associated with a base ... (PTS) and a base ... (DTS);

generating a first enhancement bitstream comprising one or more first enhancement VOPs ..., each first enhancement VOP being associated with a corresponding base VOP, a first DTS and a first PTS,

wherein the first DTS and the first PTS associated with each first enhancement VOP are selected to be equal to one another, the first PTS

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associated with each first enhancement VOP is selected to be equal to the base PTS associated with its corresponding base VOP, and the first DTS associated with each first enhancement VOP is selected to be equal to the base DTS associated with one of the base VOPs; and

generating a second enhancement bitstream comprising one or more second enhancement VOPs ..., wherein each second enhancement VOP is associated with two corresponding base VOPs, a second DTS and a second PTS,

wherein the second DTS and the second PTS associated with each second enhancement VOP are selected to be equal to one another, and

wherein the second enhancement bitstream comprises temporal enhancement bitstream and the second enhancement VOPs comprise temporal enhancement VOPs. (Emphasis in bold and underline added.)

As such, the Applicant submits that Claim 1 is patentable over Radha in view of Tan.

Radha discloses a temporal layer and an FGS layer. The temporal layer only includes B frames (or Bi-directionally-interpolated motion prediction frames), and the FGS layer is "used to improve the quality SNR [Signal-To-Noise-Ratio] of the base-layer and/or the temporal-scalability enhancement layer." See Col. 8, lines 37-41 and Figs. 8A-8D. The Examiner acknowledges in the Office Action that Radha "does not teach time stamping."

To make up for this deficiency in Radha, the Examiner cited Tan for its disclosure of a method of decoding and displaying only

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non-enhanced or base I-VOPs, P-VOPs, and B-(or in Radha, temporal-)VOPs using base decoding time stamps (base DTSs) and base presentation time stamps (base PTSs). One problem with citing Tan as a reference is that Tan totally fails to suggest a combination with anything other than a **non-enhanced** method of decoding and displaying VOPs. Hence, even if Tan were to have been considered by one of ordinary skill, one of ordinary skill still would have no motivation to combine the two references to arrive at the recitations of **not just** "one or more base ... (VOPs) being associated with a base ... (PTS) and a base ... (DTS)" **but also** "each first enhancement VOP being associated with ... a first DTS and a first PTS" and "each second enhancement VOP is associated with ... a second DTS and a second PTS" See Claim 1 (emphasis in underline added). It is impermissible to use the inventor's disclosure as a "roadmap" for selecting and combining prior art disclosures. "The invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time." See *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138 (Fed. Cir. 1985)

Moreover, an additional major problem with citing Tan as a reference is that Tan appears to show a stamping rule that, as an example, would have decoding time stamp (DTS) in the following encoded sequence I-VOP0(e.g., TS=0), P-VOP1(TS=1), B-VOP2(or temporal, see Radha)(TS=2), P-VOP3(TS=3), B-VOP4(TS=4) and would have present time stamp (PTS) in the following display order of I-VOP0(e.g., TS=0), B-VOP2(temporal)(TS=1), P-VOP1(TS=2), B-VOP4(TS=3), P-VOP3(TS=4). See Col. 7, lines 11-20 (especially lines 18-20) and Fig. 6 (note the subscripts of the PTSs); see also Col. 4, lines 26-55. As such, the Applicant respectively notes

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that in Tan the decoding time stamp (DTS) associated with B-VOP2(e.g., TS=2) is **not** selected to be equal to the presentation time stamp (PTS) associated with B-VOP2 (TS=1). In addition, the DTS associated with B-VOP4 (TS=4) is **not** selected to be equal to the PTS associated with B-VOP4 (TS=3). By contrast, Claim 1 recites:

wherein the second DTS and the second PTS
associated with each second enhancement VOP are
selected to be equal to one another, and

wherein the second enhancement bitstream
comprises temporal enhancement bitstream and the
second enhancement VOPs comprise temporal enhancement
VOPs. (Emphasis in underline added).

Accordingly, because Tan only address a non-enhanced decoding and displaying method, there is no motivation to combine Tan with Radha to teach "each first enhancement VOP being associated with a corresponding base VOP, a first DTS and a first PTS" and "each second enhancement VOP is associated with two corresponding base VOPs, a second DTS and a second PTS ... (emphasis in underline added)," as recited in Claim 1. See M.P.E.P. 2143.01 ("the prior art **must** suggest the desirability of the claimed combination").

Moreover, Tan (whether alone or in combination with Radha) does not disclose or suggest "the second DTS and the second PTS associated with each second enhancement VOP are selected to be equal to one another, and ... the second enhancement VOPs comprise temporal enhancement VOPs," as further recited in amended claim 1. (Emphasis in underline added.) See M.P.E.P. 2143.03 ("To establish *prima facie* obviousness of a claimed invention, **all** the claim limitations must be taught or suggested by the **prior art**.")

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Similar limitations are presentation in amended independent Claims 11, 19, and 30 that are also not suggested in or disclosed by the cited references.

Dependent Claims 3-10 depend (directly or indirectly) from Claim 1. Dependent Claims 13-18 depend from Claim 11. Dependent Claims 21-29 depend from Claim 19, and dependent Claims 32-38 depend from Claim 30. As such, Claims 3-10, 13-18, 21-29, and 32-38 incorporate all the terms and limitations of Claims 1, 11, 19, or 30 in addition to other limitations, which together further patentably distinguish them over the cited references. Therefore, these dependent claims should also now be allowed.

In view of the foregoing, the Applicants respectfully submit that Claims 1, 3-11, 13-19, 21-30, and 32-38 are in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested, and a timely Notice of Allowability is solicited. If there are any remaining issues that can be addressed over the telephone, the Examiner is encouraged to call Applicants' attorney at the number listed below.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By



Peter C. Hsueh

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